

## SUBCOMMITTEE: SUBCOMMITTEE #1

## HOUSE BILL NO. 1441

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Orrock)

A BILL to amend and reenact §§ 58.1-602, as it is currently effective and as it may become effective, 58.1-2401, 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia, relating to taxation of all-terrain vehicles, mopeds, and off-road motorcycles.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-602, as it is currently effective and as it may become effective, 58.1-2401, 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-602. (Contingent expiration date) Definitions.**

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

26 "Business" includes any activity engaged in by any person, or caused to be engaged in by him,  
27 with the object of gain, benefit or advantage, either directly or indirectly.

28 "Cost price" means the actual cost of an item or article of tangible personal property computed in  
29 the same manner as the sales price as defined in this section without any deductions therefrom on account  
30 of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

31 "Custom program" means a computer program which is specifically designed and developed only  
32 for one customer. The combining of two or more prewritten programs does not constitute a custom  
33 computer program. A prewritten program that is modified to any degree remains a prewritten program  
34 and does not become custom.

35 "Distribution" means the transfer or delivery of tangible personal property for use, consumption,  
36 or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person  
37 who has processed, manufactured, refined, or converted such property, but does not include the transfer  
38 or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt  
39 under this chapter.

40 "Gross proceeds" means the charges made or voluntary contributions received for the lease or  
41 rental of tangible personal property or for furnishing services, computed with the same deductions, where  
42 applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use,  
43 but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges,  
44 service charges, or interest from credit extended on the lease or rental of tangible personal property under  
45 conditional lease or rental contracts or other conditional contracts providing for the deferred payments of  
46 the lease or rental price.

47 "Gross sales" means the sum total of all retail sales of tangible personal property or services as  
48 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not  
49 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal  
50 Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or  
51 the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605  
52 or 58.1-606.

53 "Import" and "imported" are words applicable to tangible personal property imported into the  
54 Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words  
55 applicable to tangible personal property exported from the Commonwealth to other states as well as to  
56 foreign countries.

57 "In this Commonwealth" or "in the Commonwealth" means within the limits of the  
58 Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United  
59 States of America.

60 "Integrated process," when used in relation to semiconductor manufacturing, means a process that  
61 begins with the research or development of semiconductor products, equipment, or processes, includes  
62 the handling and storage of raw materials at a plant site, and continues to the point that the product is  
63 packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing,  
64 any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be  
65 deemed used as part of the integrated process if its use contributes, before, during, or after production, to  
66 higher product quality, production yields, or process efficiencies. Except as otherwise provided by law,  
67 such term shall not mean general maintenance or administration.

68 "Internet" means collectively, the myriad of computer and telecommunications facilities, which  
69 comprise the interconnected world-wide network of computer networks.

70 "Internet service" means a service that enables users to access proprietary and other content,  
71 information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

72 "Lease or rental" means the leasing or renting of tangible personal property and the possession or  
73 use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

74 "Manufacturing, processing, refining, or conversion" includes the production line of the plant  
75 starting with the handling and storage of raw materials at the plant site and continuing through the last  
76 step of production where the product is finished or completed for sale and conveyed to a warehouse at the  
77 production site, and also includes equipment and supplies used for production line testing and quality  
78 control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and

79 magazine printing when such activities are performed by the publisher of any newspaper or magazine for  
80 sale daily or regularly at average intervals not exceeding three months.

81 The determination whether any manufacturing, mining, processing, refining or conversion activity  
82 is industrial in nature shall be made without regard to plant size, existence or size of finished product  
83 inventory, degree of mechanization, amount of capital investment, number of employees or other factors  
84 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be  
85 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard  
86 Industrial Classification Manual for 1972 and any supplements issued thereafter.

87 "Modular building" means, but shall not be limited to, single and multifamily houses, apartment  
88 units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are  
89 intended to become real property, primarily constructed at a location other than the permanent site, built  
90 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the  
91 Virginia Department of Housing and Community Development, and shipped with most permanent  
92 components in place to the site of final assembly. For purposes of this chapter, a modular building shall  
93 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified  
94 under the provisions of the National Manufactured Housing Construction and Safety Standards Act of  
95 1974 (42 U.S.C. § 5401 et seq.).

96 "Modular building manufacturer" means a person or corporation who owns or operates a  
97 manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies  
98 and materials into modular buildings, as defined in this section, at a location other than at the site where  
99 the modular building will be assembled on the permanent foundation and may or may not be engaged in  
100 the process of affixing the modules to the foundation at the permanent site.

101 "Modular building retailer" means any person who purchases or acquires a modular building from  
102 a modular building manufacturer, or from another person, for subsequent sale to a customer residing  
103 within or outside of the Commonwealth, with or without installation of the modular building to the  
104 foundation at the permanent site.

105 "Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions  
106 of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which  
107 all applicable motor vehicle sales and use taxes have been paid. ~~"Motor vehicle" does not include any all-~~  
108 ~~terrain vehicle, moped, or off road motorcycle all as defined in § 46.2-100. The taxes under this chapter~~  
109 ~~or pursuant to the authority granted under this chapter shall apply to such all terrain vehicles, mopeds, and~~  
110 ~~off road motorcycles.~~

111 "Occasional sale" means a sale of tangible personal property not held or used by a seller in the  
112 course of an activity for which he is required to hold a certificate of registration, including the sale or  
113 exchange of all or substantially all the assets of any business and the reorganization or liquidation of any  
114 business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number,  
115 scope and character to constitute an activity requiring the holding of a certificate of registration.

116 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for  
117 purposes of this chapter only, shall also include Internet service regardless of whether the provider of such  
118 service is also a telephone common carrier.

119 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership  
120 corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy,  
121 receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit,  
122 body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term  
123 shall mean the same as the singular.

124 "Prewritten program" means a computer program that is prepared, held or existing for general or  
125 repeated sale or lease, including a computer program developed for in-house use and subsequently sold or  
126 leased to unrelated third parties.

127 "Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of  
128 every kind and description, and all other equipment determined by the Tax Commissioner to constitute  
129 railroad rolling stock.

130 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale  
131 in the form of tangible personal property or services taxable under this chapter, and shall include any such

transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also shall specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in,

real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes

collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed ~~20%~~ 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible



personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

**§ 58.1-602. (Contingent effective date) Definitions.**

A. As used in this chapter, unless the context clearly shows otherwise:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing

240 advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property  
241 purchased for use in such advertising.

242 "Amplification, transmission and distribution equipment" means, but is not limited to, production,  
243 distribution, and other equipment used to provide Internet-access services, such as computer and  
244 communications equipment and software used for storing, processing and retrieving end-user subscribers'  
245 requests.

246 "Business" includes any activity engaged in by any person, or caused to be engaged in by him,  
247 with the object of gain, benefit or advantage, either directly or indirectly.

248 "Cost price" means the actual cost of an item or article of tangible personal property computed in  
249 the same manner as the sales price as defined in this section without any deductions therefrom on account  
250 of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

251 "Custom program" means a computer program which is specifically designed and developed only  
252 for one customer. The combining of two or more prewritten programs does not constitute a custom  
253 computer program. A prewritten program that is modified to any degree remains a prewritten program  
254 and does not become custom.

255 "Distribution" means the transfer or delivery of tangible personal property for use, consumption,  
256 or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person  
257 who has processed, manufactured, refined, or converted such property, but does not include the transfer  
258 or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt  
259 under this chapter.

260 "Gross proceeds" means the charges made or voluntary contributions received for the lease or  
261 rental of tangible personal property or for furnishing services, computed with the same deductions, where  
262 applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use,  
263 but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges,  
264 service charges, or interest from credit extended on the lease or rental of tangible personal property under  
265 conditional lease or rental contracts or other conditional contracts providing for the deferred payments of  
266 the lease or rental price.

267 "Gross sales" means the sum total of all retail sales of tangible personal property or services as  
268 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not  
269 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal  
270 Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or  
271 the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605  
272 or 58.1-606.

273 "Import" and "imported" are words applicable to tangible personal property imported into the  
274 Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words  
275 applicable to tangible personal property exported from the Commonwealth to other states as well as to  
276 foreign countries.

277 "In this Commonwealth" or "in the Commonwealth" means within the limits of the  
278 Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United  
279 States of America.

280 "Integrated process," when used in relation to semiconductor manufacturing, means a process that  
281 begins with the research or development of semiconductor products, equipment, or processes, includes  
282 the handling and storage of raw materials at a plant site, and continues to the point that the product is  
283 packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing,  
284 any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be  
285 deemed used as part of the integrated process if its use contributes, before, during, or after production, to  
286 higher product quality, production yields, or process efficiencies. Except as otherwise provided by law,  
287 such term shall not mean general maintenance or administration.

288 "Internet" means collectively, the myriad of computer and telecommunications facilities, which  
289 comprise the interconnected world-wide network of computer networks.

290 "Internet service" means a service that enables users to access proprietary and other content,  
291 information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

292 "Lease or rental" means the leasing or renting of tangible personal property and the possession or  
293 use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

294 "Manufacturing, processing, refining, or conversion" includes the production line of the plant  
295 starting with the handling and storage of raw materials at the plant site and continuing through the last  
296 step of production where the product is finished or completed for sale and conveyed to a warehouse at the  
297 production site, and also includes equipment and supplies used for production line testing and quality  
298 control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and  
299 magazine printing when such activities are performed by the publisher of any newspaper or magazine for  
300 sale daily or regularly at average intervals not exceeding three months.

301 The determination whether any manufacturing, mining, processing, refining or conversion activity  
302 is industrial in nature shall be made without regard to plant size, existence or size of finished product  
303 inventory, degree of mechanization, amount of capital investment, number of employees or other factors  
304 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be  
305 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard  
306 Industrial Classification Manual for 1972 and any supplements issued thereafter.

307 "Modular building" means, but shall not be limited to, single and multifamily houses, apartment  
308 units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are  
309 intended to become real property, primarily constructed at a location other than the permanent site, built  
310 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the  
311 Virginia Department of Housing and Community Development, and shipped with most permanent  
312 components in place to the site of final assembly. For purposes of this chapter, a modular building shall  
313 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified  
314 under the provisions of the National Manufactured Housing Construction and Safety Standards Act of  
315 1974 (42 U.S.C. § 5401 et seq.).

316 "Modular building manufacturer" means a person or corporation who owns or operates a  
317 manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies  
318 and materials into modular buildings, as defined in this section, at a location other than at the site where  
319 the modular building will be assembled on the permanent foundation and may or may not be engaged in  
320 the process of affixing the modules to the foundation at the permanent site.

321 "Modular building retailer" means any person who purchases or acquires a modular building from  
322 a modular building manufacturer, or from another person, for subsequent sale to a customer residing  
323 within or outside of the Commonwealth, with or without installation of the modular building to the  
324 foundation at the permanent site.

325 "Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions  
326 of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which  
327 all applicable motor vehicle sales and use taxes have been paid. ~~"Motor vehicle" does not include any all-~~  
328 ~~terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. The taxes under this chapter~~  
329 ~~or pursuant to the authority granted under this chapter shall apply to such all-terrain vehicles, mopeds, and~~  
330 ~~off-road motorcycles.~~

331 "Occasional sale" means a sale of tangible personal property not held or used by a seller in the  
332 course of an activity for which he is required to hold a certificate of registration, including the sale or  
333 exchange of all or substantially all the assets of any business and the reorganization or liquidation of any  
334 business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number,  
335 scope and character to constitute an activity requiring the holding of a certificate of registration.

336 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for  
337 purposes of this chapter only, shall also include Internet service regardless of whether the provider of such  
338 service is also a telephone common carrier.

339 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership  
340 corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy,  
341 receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit,  
342 body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term  
343 shall mean the same as the singular.

344 "Prewritten program" means a computer program that is prepared, held or existing for general or  
345 repeated sale or lease, including a computer program developed for in-house use and subsequently sold or  
346 leased to unrelated third parties.

347 "Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of  
348 every kind and description, and all other equipment determined by the Tax Commissioner to constitute  
349 railroad rolling stock.

350 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale  
351 in the form of tangible personal property or services taxable under this chapter, and shall include any such  
352 transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale  
353 must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale  
354 for resale which is not in strict compliance with such regulations shall be personally liable for payment of  
355 the tax.

356 The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or  
357 charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90  
358 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other  
359 place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a  
360 consideration; (ii) sales of tangible personal property to persons for resale when because of the operation  
361 of the business, or its very nature, or the lack of a place of business in which to display a certificate of  
362 registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or  
363 because such persons are minors or transients, or because such persons are engaged in essentially service  
364 businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to  
365 the difficulty of policing such business operations; (iii) the separately stated charge made for automotive  
366 refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and  
367 (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite  
368 television programming to the customer of such programming. Equipment sold to a provider of satellite  
369 television programming for subsequent lease or purchase by the customer of such programming shall be  
370 deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors  
371 of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible  
372 personal property to such persons and may refuse to issue certificates of registration to such persons. The  
373 terms "retail sale" and a "sale at retail" also shall specifically include the separately stated charge made

374 for supplies used during automotive repairs whether or not there is transfer of title or possession of the  
375 supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by  
376 an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

377 The term "transient" shall not include a purchaser of camping memberships, time-shares,  
378 condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in,  
379 real estate, however created or sold and whether registered with the Commonwealth or not. Further, a  
380 purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific  
381 real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided,  
382 however, that the term or time period involved is for seven years or more.

383 The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal  
384 property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i)  
385 at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the  
386 transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the  
387 purchaser manufactures goods.

388 "Retailer" means every person engaged in the business of making sales at retail, or for distribution,  
389 use, consumption, or storage to be used or consumed in the Commonwealth.

390 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental,  
391 conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and  
392 any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal  
393 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the  
394 furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the  
395 premises of the person furnishing, preparing, or serving such tangible personal property. A transaction  
396 whereby the possession of property is transferred but the seller retains title as security for the payment of  
397 the price shall be deemed a sale.

398 "Sales price" means the total amount for which tangible personal property or services are sold,  
399 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,  
400 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,

401 without any deduction therefrom on account of the cost of the property sold, the cost of materials used,  
402 labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash  
403 discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit  
404 extended on sales of tangible personal property under conditional sale contracts or other conditional  
405 contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes  
406 collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the  
407 price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service  
408 charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or  
409 service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade,  
410 or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this  
411 chapter shall be paid on the net difference between the sales price of the new or used articles and the credit  
412 for the used articles.

413 "Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring,  
414 lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature,  
415 humidity, vibration, or other environmental conditions required for the integrated process of  
416 semiconductor manufacturing.

417 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof;  
418 (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the  
419 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,  
420 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other  
421 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or  
422 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control  
423 testing of product, materials, equipment, or processes; or the measurement of equipment performance or  
424 production parameters regardless of where or when the quality control, testing, or measuring activity takes  
425 place, how the activity affects the operation of equipment, or whether the equipment and supplies come  
426 into contact with the product.



427 "Storage" means any keeping or retention of tangible personal property for use, consumption or  
428 distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of  
429 business.

430 "Tangible personal property" means personal property which may be seen, weighed, measured,  
431 felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property"  
432 shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible  
433 personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt  
434 from all other state and local utility taxes, and (ii) manufactured signs.

435 "Use" means the exercise of any right or power over tangible personal property incident to the  
436 ownership thereof, except that it does not include the sale at retail of that property in the regular course of  
437 business. The term does not include the exercise of any right or power, including use, distribution, or  
438 storage, over any tangible personal property sold to a nonresident donor for delivery outside of the  
439 Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the  
440 Commonwealth via mail or telephone. The term does not include any sale determined to be a gift  
441 transaction, subject to tax under § 58.1-604.6.

442 "Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein  
443 defined.

444 "Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers  
445 to those activities which are an integral part of the production of a product, including all steps of an  
446 integrated manufacturing or mining process, but not including ancillary activities such as general  
447 maintenance or administration. When used in relation to mining, it shall refer to the activities specified  
448 above, and in addition, any reclamation activity of the land previously mined by the mining company  
449 required by state or federal law.

450 "Video programmer" means a person or entity that provides video programming to end-user  
451 subscribers.

452 "Video programming" means video and/or information programming provided by or generally  
453 considered comparable to programming provided by a cable operator including, but not limited to, Internet  
454 service.

455 B. Notwithstanding the definitions in subsection A, to the extent that conformity to any remote  
456 collection authority legislation enacted by the Congress of the United States shall so require, the words  
457 and terms used in this chapter related to the minimum simplification requirements shall have the same  
458 meaning as provided in such federal legislation.

459 **§ 58.1-2401. Definitions.**

460 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

461 "Commissioner" shall mean the Commissioner of the Department of Motor Vehicles of the  
462 Commonwealth.

463 "Department" shall mean the Department of Motor Vehicles of this Commonwealth, acting  
464 through its duly authorized officers and agents.

465 "Mobile office" shall mean an industrialized building unit not subject to the federal regulation,  
466 which may be constructed on a chassis for the purpose of towing to the point of use and designed to be  
467 used with or without a permanent foundation, for commercial use and not for residential use; or two or  
468 more such units separately towable, but designed to be joined together at the point of use to form a single  
469 commercial structure, and which may be designed for removal to, and installation or erection on other  
470 sites.

471 "Motor vehicle" shall mean every vehicle, except for mobile office as herein defined, which is  
472 self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a  
473 motor vehicle, including all-terrain vehicles, manufactured homes, mopeds, and off-road motorcycles as  
474 those terms are defined in § 46.2-100 and every device in, upon and by which any person or property is,  
475 or can be, transported or drawn upon a highway, but excepting devices moved by human or animal power,  
476 devices used exclusively upon stationary rails or tracks and vehicles, other than manufactured homes, used  
477 in this Commonwealth but not required to be licensed by the Commonwealth.

"Sale" shall mean any transfer of ownership or possession, by exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle. The term shall also include a transaction whereby possession is transferred but title is retained by the seller as security. The term shall not include a transfer of ownership or possession made to secure payment of an obligation, nor shall it include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a sale.

"Sale price" shall mean the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers' excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances. However, "sale price" shall not include (i) any manufacturer rebate or manufacturer incentive payment applied to the transaction by the customer or dealer whether as a reduction in the sales price or as payment for the vehicle and (ii) the cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment installed in or added to a motor vehicle which is required by law or regulation as a condition for operation of a motor vehicle by a handicapped person.

**§ 58.1-2402. (Contingent expiration date) Levy.**

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price:

1. Three percent through midnight on June 30, 2013, four percent ~~(4.0%)~~ beginning July 1, 2013, through midnight on June 30, 2014, ~~four and five hundredths of a 4.05 percent (4.05%)~~ beginning July 1, 2014, through midnight on June 30, 2015, ~~four and one tenth of a 4.1 percent (4.1%)~~ beginning July 1, 2015, through midnight on June 30, 2016, and ~~four and fifteen hundredths (4.15%) of a 4.15 percent~~

beginning on and after July 1, 2016, of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle sold in the Commonwealth; and if such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, sold by a Virginia dealer, or sold by anyone other than a Virginia dealer and then used or stored for use in the Commonwealth, (a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle.

2. Three percent through midnight on June 30, 2013, four percent ~~(4.0%)~~ beginning July 1, 2013, through midnight on June 30, 2014, ~~four and five hundredths of a 4.05 percent (4.05%)~~ beginning July 1, 2014, through midnight on June 30, 2015, ~~four and one tenth of a 4.1 percent (4.1%)~~ beginning July 1, 2015, through midnight on June 30, 2016, and ~~four and fifteen hundredths (4.15%) of a 4.15 percent~~ beginning on and after July 1, 2016, of the sale price of each motor vehicle, not sold in Virginia but used or stored for use in the Commonwealth; or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. If such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. If such vehicle is an all-

terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, not sold in the Commonwealth but used or stored for use in the Commonwealth (a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle. When any motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to taxation at a rate exceeding zero percent shall be \$75, except as provided by those exemptions defined in § 58.1-2403. This subdivision shall not apply to any all-terrain vehicle, moped, or off-road motorcycle subject to taxation under this chapter.

4 through 7. [Repealed.]

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of the Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision A 10 of § 46.2-1530, shall be subject to the tax.

**§ 58.1-2402. (Contingent effective date) Levy.**

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price:

1. Three percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle sold in the Commonwealth; and if such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, sold by a Virginia dealer, or sold by anyone other than a Virginia dealer and then used or stored for use in the Commonwealth, (a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle.

2. Three percent of the sale price of each motor vehicle, or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in the Commonwealth. If such

vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. If such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, not sold in the Commonwealth but used or stored for use in the Commonwealth (a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle. When any motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to taxation at a rate exceeding zero percent shall be \$35, except as provided by those exemptions defined in § 58.1-2403. This subdivision shall not apply to any all-terrain vehicle, moped, or off-road motorcycle subject to taxation under this chapter.

~~4 through 7. [Repealed.]~~

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of the Commonwealth.

612 D. Any person who with intent to evade or to aid another person to evade the tax provided for  
613 herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title,  
614 or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or  
615 Title 46.2, shall be guilty of a Class 3 misdemeanor.

616 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged  
617 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to  
618 subdivision A 10 of § 46.2-1530, shall be subject to the tax.

619 **§ 58.1-2403. Exemptions.**

620 No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

- 621 1. Sold to or used by the United States government or any governmental agency thereof;
- 622 2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
- 623 3. Registered in the name of a volunteer fire department or volunteer emergency medical services  
624 agency not operated for profit;
- 625 4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any  
626 other recognized Indian tribe of the Commonwealth living on the tribal reservation;
- 627 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the  
628 lienholder;
- 629 6. A manufactured home permanently attached to real estate and included in the sale of real estate;
- 630 7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a  
631 spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to  
632 the transfer;
- 633 8. Transferred from an individual or partnership to a corporation or limited liability company or  
634 from a corporation or limited liability company to an individual or partnership if the transfer is incidental  
635 to the formation, organization or dissolution of a corporation or limited liability company in which the  
636 individual or partnership holds the majority interest;
- 637 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent  
638 corporation to a wholly owned subsidiary;



639           10. Being registered for the first time in the Commonwealth and the applicant holds a valid,  
640 assignable title or registration issued to him by another state or a branch of the United States Armed Forces  
641 and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12  
642 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been  
643 purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a  
644 sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value  
645 of the vehicle at the time of registration in Virginia;

646           11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

647           b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except  
648 for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For  
649 purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms  
650 are defined in § 46.2-602.2;

651           12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban  
652 bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one  
653 way, on the same day;

654           13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole  
655 purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

656           14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and  
657 for the use of a church conducted not for profit;

658           15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in  
659 the instruction of driver's education when such education is a part of such school's curriculum for full-  
660 time students;

661           16. Sold to an insurance company or local government group self-insurance pool, created pursuant  
662 to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered  
663 owner of such vehicle a total loss claim;

664 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers  
665 of foreign governments, their employees or agents, and members of their families, if such persons are  
666 nationals of the state by which they are appointed and are not citizens of the United States;

667 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a  
668 nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United  
669 States Internal Revenue Code;

670 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common  
671 carrier or common carrier of passengers;

672 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human  
673 diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative  
674 hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a  
675 nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in,  
676 diagnosis of, or therapy for human ailments;

677 21. Transferred, as a gift or through a sale to an organization exempt from taxation under §  
678 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by  
679 such organization;

680 22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of  
681 the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,  
682 medicines, and other necessities of life to, and providing shelter for, needy persons in the United States  
683 and throughout the world;

684 23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a  
685 Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether  
686 other beneficiaries of the trust may also be named in the trust instrument, when no consideration has  
687 passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the  
688 trustees holding title to the motor vehicle;

689 24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the  
690 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named

691 in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the  
692 death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either  
693 case;

694 25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if  
695 the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with  
696 respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the  
697 lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid  
698 to the Commonwealth by the lessee purchasing the vehicle;

699 26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will,  
700 of such deceased person;

701 27. An all-terrain vehicle, moped, or off-road motorcycle ~~all~~, as those terms are defined in § 46.2-  
702 100. ~~Such all-terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle or~~  
703 ~~other vehicle subject to the tax imposed under this chapter, that is being titled for the first time in the~~  
704 Commonwealth and that the applicant (i) has owned for more than 12 months or (ii) has owned for less  
705 than 12 months and provides evidence of tax paid pursuant to Chapter 6 (§ 58.1-600 et seq.);

706 28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3)  
707 of the Internal Revenue Code and that is primarily used by the organization to transport to markets for  
708 sale produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; or

709 29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted  
710 the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or  
711 (ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded  
712 to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the  
713 Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of  
714 purchase.

715 **§ 58.1-2425. (Contingent expiration date) Disposition of revenues.**

716 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.  
717 Except as otherwise provided in this section, these funds shall constitute special funds within the

718 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall  
719 be available for use in subsequent years for the purposes set forth in this chapter, and any interest income  
720 on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is  
721 hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of  
722 traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this  
723 chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or  
724 county wherein such manufactured home is to be situated as a dwelling; (ii) effective January 1, 1987, an  
725 amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated  
726 by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-  
727 694, 46.2-697, 58.1-2401, 58.1-2402, and this section shall be distributed to and paid into the  
728 Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the Commonwealth  
729 Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for  
730 transportation needs; ~~and~~ (iii) the net additional revenues generated by increases in the rates of taxes under  
731 subdivisions A 1 and A 2 of § 58.1-2402 and generated by the increase in the minimum tax under  
732 subdivision A 3 of § 58.1-2402 pursuant to enactments of a Session of the General Assembly held in 2013  
733 shall be deposited by the Comptroller into the Highway Maintenance and Operating Fund established  
734 pursuant to § 33.2-1530; and (iv) all funds collected pursuant to the provisions of this chapter from all-  
735 terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be  
736 distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as  
737 the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone  
738 other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in  
739 which the vehicle is used or stored for use; (b) an amount equal to a 4.3 percent tax shall be distributed in  
740 the same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected  
741 on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the  
742 county or city in which the vehicle is used or stored for use; and (c) if the all-terrain vehicle, moped, or  
743 off-road motorcycle was purchased from a Virginia dealer, or purchased from anyone other than a Virginia  
744 dealer or outside of Virginia and then used or stored for use in a county or city in a planning district

described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to § 58.1-603.1, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use.

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (ii) of subsection A, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

**§ 58.1-2425. (Contingent effective date) Disposition of revenues.**

A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; ~~and~~ (ii) effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; and (iii) all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other

772 than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the  
773 vehicle is used or stored for use and (b) an amount equal to a four percent tax shall be distributed in the  
774 same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected on  
775 sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the  
776 county or city in which the vehicle is used or stored for use.

777 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation  
778 Trust Fund pursuant to clause (ii) of subsection A of this section, an aggregate of 4.2 percent shall be set  
779 aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth  
780 Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year  
781 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

782 **2. That the provisions of this act shall become effective October 1, 2018.**

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